

May 11, 1995



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VIA FEDERAL EXPRESS

Office of the Secretary

Federal Communications Commission
1919 M. Street, Northwest
Room 222
Washington, D.C. 20554

Re: Request for Rulemaking; Docket No. 92-237

Dear Secretary:

Pursuant to Federal Communications Commission Rules, Section 1.415 and 1.419, 47 C.F.R. §§ 1.415 and 1.149, transmitted herewith on behalf of VarTec Telecom, Inc. please find an original and four copies of the Company's Request for Rulemaking in the above described matter currently pending before the Commission. Additionally, included with this filing are five extra copies of this filing to be distributed to each individual Commissioner.

VarTec is also forwarding one copy of this filing to the Chief Counsel for Advocacy of the Small Business Administration, 409 Third Street, Southwest, Washington, D.C. 20554 as well as Mr. Ron Weisenberger, Office of Advocacy, Fort Worth Small Business Administration, 4300 Amon Carter Boulevard, Suite 114, Fort Worth, Texas 76155.

Thank you for your attention to this matter. Please direct any questions or communications regarding this filing to the undersigned or Michael G. Hoffman, Esq., General Counsel and Senior Vice President, Department of Legal and Regulatory Affairs at the below described address and telephone number.

Respectfully submitted,

Patrick J. Case

cc: Michael G. Hoffman, Esq.
General Counsel and
Senior Vice President
Legal and Regulatory Affairs

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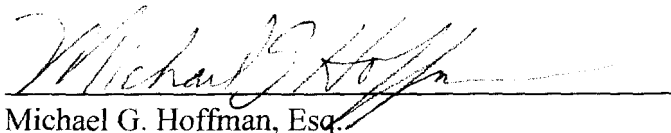
CERTIFICATE OF SERVICE

I hereby certify that I have this day served (via Federal Express) nine (9) complete copies of VarTec's Request For Rulemaking upon the Office of the Secretary of the Federal Communications Commission, 1919 M. Street, Northwest, Room 222, Washington, D.C. 20554 as well as one copy of this filing on the following entities listed below via First Class U.S. Mail:

Chief Counsel for Advocacy
Small Business Administration
409 Third Street, Southwest
Washington, D.C. 20554

Ron Weisenberger, Esq.
Office of Advocacy
Fort Worth Small Business Administration
4300 Amon Carter Boulevard, Suite 114
Fort Worth, Texas 76155.

Dated at Lancaster, Texas this 11th day of May, 1995.

A handwritten signature in dark ink, appearing to read "Michael G. Hoffman", is written over a horizontal line.

Michael G. Hoffman, Esq.
General Counsel and
Senior Vice President
Department of Legal and Regulatory Affairs
VarTec Telecom, Inc.

Dated: May 11, 1995

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SUMMARY

VarTec Telecom, Inc. ("VarTec") hereby respectfully requests that the Federal Communications Commission ("FCC" or "Commission") formally adopt rules regarding the expansion of Feature Group D ("FGD") Carrier Identification Codes ("CICs"). The Commission has received numerous comments regarding this issue which culminated in the Notice of Proposed Rulemaking ("NPR") dated April 4, 1994 in CC Docket No. 92-237.¹ The due date for responses in said Docket was June 7, 1994. As of April 30, 1995, the Commission has not issued an order codifying the provisions included in the proposed rulemaking nor has the Commission addressed other concerns forwarded to the Commission during the response period in the NPR.²

Since the promulgation of CC Docket 92-237, many interexchange carriers ("IXCs") as well as local exchange carriers ("LECs") have begun the process of upgrading their current switching facilities to accept the expanded seven digit Carrier Access Code ("CAC") format (101XXXX) as well as the current five digit CAC format (10XXX). In fact, some LECs have already implemented the required network and billing system changes and upgrades to allow end users access to a specific interexchange carrier via either the five digit CAC, the expanded seven digit CAC, or both. Bell Communications Research, Inc. ("BellCore") has exhausted its supply of three digit CICs and is currently issuing four digit CICs. However, several questions and concerns put forth during the comments period regarding the standards, rules and regulations that will govern the implementation

¹ "In the Matter of Administration of the North American Numbering Plan," CC Docket No. 92-237, Adopted March 30, 1994, Released: April 4, 1994 pp. 15-20. The CIC expansion plan was designated as Phase Two of the docket. Comments regarding the FGD expansion plan, transition period and interstate intraLATA toll calls are included in the proposed rulemaking.

² The response period for the NPR (Docket No. 92-237) ended on June 7, 1994. VarTec filed comments in Docket No. 92-237 dated June 3, 1994.

of the seven digit CACs have yet to be ruled on by the Commission. Those issues include: (1) requests made by VarTec, as well as many other IXC's currently utilizing three digit CICs, to "grandfather"³ the use of three digit CICs so as to limit customer confusion; or, if the Commission finds it contrary to the public interest to grandfather VarTec's and/or all five digit CICs, (2) clarifying of the responsibilities of the LECs and IXC's regarding the FGD CIC expansion; (3) the date certain when all LECs capable of providing FGD access must amend their network and billing systems to provide functionality that will transport end users' calls utilizing the five digit CAC as well as the seven digit CAC (or both) to the end users IXC of choice; (4) the length of the permissive dialing period; and, (5) delineate practices that will be implemented to lessen the degree of customer confusion during the permissive dialing period as well as at the time when the permissive dialing period will cease.

The actions requested above are clearly within the purview of the Commission's jurisdiction. The requested rulemaking does not preempt state regulatory policies. Rather, it promotes the promulgation of a national policy regarding the FGD CIC expansion which will reduce customer confusion and enhance the competitive atmosphere currently present in the long distance toll markets. VarTec believes that without Commission guidance, customer confusion will be such that competition in long distance toll market may be grievously diminished.

³ "Grandfather" is used to describe a situation whereby a carrier which currently utilizes a three digit CIC would not be required to switch to a four digit CIC. Hence, customers who utilize that carrier's five digit CAC would be allowed to continue to dial said carrier's five digit CAC indefinitely.

IN THE MATTER OF)
)
 Administration of the North American)
 Numbering Plan;) **CC Docket No. 92-237**
 Phase II)
 Feature Group D Carrier)
 Identification Code Expansion Plan)
 _____)

VarTec Telecom, Inc. ("VarTec") hereby petitions the Federal Communications Commission, pursuant to 47 Code of Federal Regulations, Section 1.401, to promptly establish guidelines regarding the expansion of Feature Group D ("FGD") Carrier Identification Codes ("CICs").

⁴ Docket 92-237, ¶ 46, delineated the CIC as being the "XXX" portion of a long distance carrier's FGD 10XXX CAC.

existing CICs of all or certain IXC's will be grandfathered or, in the alternative, establish standardized rules that will provide for a specific implementation date for all LECs providing Equal Access services, a lengthy permissive dialing period and a date certain that customers will no longer be allowed to dial the five digit CAC.⁵ Additionally, in either ruling, the Commission should clearly define the responsibilities of LECs and IXC's during the transition period. The Commission's order codifying the recommendations herein will promote an increase in the current level of competition in the telecommunications market thereby providing consumers with increased variety of choice in long distance carriers.

⁵ The permissive dialing period or transition period is the period when end users may utilize both three and four digit FGD CICs.

I. INTRODUCTION AND STATEMENT OF FACTS

A. INTEREST OF THE PETITIONER

VarTec Telecom, Inc. is a small (albeit a fast-growing and dynamic) long distance resale carrier incorporated in the State of Texas in 1989. The Company is currently authorized to provide intrastate interexchange services in forty-two (42) states. VarTec's success is attributable, in part, to its strategy of offering competitively-priced long distance services to residential and business end users who access the Company through VarTec's FGD CIC. Long distance telephone calls initiated through the use of VarTec's CICs are routed to the Company by LECs with whom VarTec has previously purchased originating access and entered into billing and collection service agreements.

Originally, CICs were set up to provide consumers with equal access (10XXX) to all individuals. Thereafter, the industry developed the concept of "easy access" which allows customers to make their long distance telephone calls simply by dialing one plus (1+) the telephone number of the intended party. In actuality, equal access disproportionately impedes the growth of small long distance carriers because they are forced to market their services on a "try us, you'll like us" basis. Naturally, this process is extremely difficult because a large percentage of consumers in the United States make long distance calls by utilizing their presubscribed IXC. Most consumers are presubscribed to either AT&T, MCI or Sprint. If the Commission requires small interexchange carriers to switch to the expanded CIC format, it will make it increasingly more difficult for small IXCs to market their services to consumers.

A significant percentage of VarTec's substantial customer base and associated toll-revenues are generated from callers currently utilizing the Company's CAC to reach VarTec for their long distance needs on a particular call basis rather than being presubscribed to VarTec's long distance

service as their primary interexchange carrier. Thus, both the expansion of FGD CICs as well as the terms associated with the implementation process itself are matters of critical importance to the Company. In fact, customer confusion as a result of the implementation of the expanded FGD CICs would have a significant impact on the Company's operations.

B. STATISTICAL DATA RELEVANT TO THIS PETITION.

The following are statistics relevant to the interexchange toll market in the United States.

- (1) As of September 30, 1994, there were 458 long distance carriers purchasing the Equal Access services of LECs in the United States.⁶
- (2) As of June 30, 1994, 454 carriers had presubscribed lines and AT&T, MCI and Sprint controlled 92.24% (133,952,000) of the presubscribed lines in the United States.⁷
- (3) The total number of presubscribed lines in the United States has increased from 121,467,000 to 145,229,000 from December of 1987 to June of 1994.⁸
- (4) In 1984, AT&T, MCI and Sprint controlled 97.3% while the "All Other Carriers" group contributed the remaining 2.7% of the total long distance revenue in the U.S.⁹

⁶ "FCC Report on Long Distance Carriers and Code Assignments," Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C., February 1995, p. 8.

⁷ "FCC Study on Trends in Telephone Service," Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, February, 1995, p. 42.

⁸ Ibid.

⁹ Ibid.

- (5) In 1993, AT&T, MCI, and Sprint controlled approximately 85.9% of the long distance market shares while the "All Other Carriers" group commanded 11.8% of the long distance toll revenues in the U.S.¹⁰

The statistical data described above indicates that the considerable growth in revenue attributable to the "All Other Carriers" group (of which VarTec is a part) is the result of consumers dialing the access codes of long distance carriers rather than utilizing their presubscribed interexchange carrier and, where allowed, dialing an interexchange carriers CAC in order to obtain relief from the intrastate intraLATA long distance charges of the LECs. This information also clearly shows that AT&T, MCI and Sprint have large presubscribed customer bases and control over 90% of the long distance toll market. On the contrary, VarTec, as well as many other IXC's, depend on their customers utilizing a CAC as a means of competing with the RBOCs (for intraLATA traffic) and AT&T, MCI, Sprint and LDDS. Thus, Customer confusion resulting from the Feature Group D expansion could cause irreparable harm to VarTec as well as other small IXC's throughout the U.S.

C. BRIEF HISTORY OF PHASE II OF THIS DOCKET

Phase II of Docket No. 92-237, pertains to the expansion of the FGD CICs. The Docket was initiated in 1992. FGD CICs were created as a means of allowing end users access to their long distance carrier of choice thereby increasing competition within the long distance toll industry. At inception, 969 potential three digit CICs existed. The supply of three digit CICs was exhausted

¹⁰ Ibid, p. 45.

earlier this year and BellCore has begun issuing four digit CICs. The Commission issued an NPR in this Docket on April 4, 1994 that stated the Commission was persuaded by the comments delineating that the expansion plan should not be delayed. The NPR also requested comments on the Commission's proposed decision prescribing a six-year permissive dialing period¹¹ as well as comments regarding whether or not the Commission should require local exchange carriers to cease screening and completing interstate intraLATA "1+" MTS calls and, instead, deliver those calls to the carrier preselected by the end user unless the preliminary routing number indicated otherwise.¹² As stated above, the comment period for this Docket ended on June 7, 1994. Numerous parties filed comments regarding the issues described above (VarTec filed comments dated June 3, 1994). As of April 30, 1994, the Commission has yet to adopt rules regarding Phase II of this docket.

D. CURRENT POSITIONS OF THE LECs

VarTec requests action from the Commission regarding this issue because of the disparity in policies and procedures currently put forth by the LECs. VarTec has received correspondence describing the procedures that each respective LEC will employ during the FGD CIC expansion. Below is an abbreviated summary of said correspondence.

- (1) **Bell Atlantic** - On December 2, 1994, VarTec received correspondence from Bell Atlantic (copy included as **Exhibit "1"**) stating that the Order and Billing Forum had authorized the expansion of the three digit CIC to the four digit CIC. Additionally,

¹¹ NPR, ¶ 54.

¹² NPR, ¶ 58.

the correspondence states that "If you convert to the 4 digit CIC, you will not be allowed to send mixed CICs 3 and 4 digits. The usage will be returned if this occurs."¹³ No permissive dialing period was mentioned.

- (2) **Ameritech** - VarTec received four different pieces of correspondence from Ameritech regarding the CIC expansion Attached as **Exhibits "2-a" through "2-d."** This correspondence lists three different implementation dates of November 1, 1994, November 30, 1994 and either April 1, 1995 or sometime during the second quarter of 1995. The last piece of correspondence dated January 10, 1995 (**Exhibit "2-d"**) states that the conversion process is optional. **Exhibit "2-a"** states that there will be no significant permissive period and that three digit CICs will eventually be phased out entirely.¹⁴
- (3) **NYNEX** - VarTec received correspondence from NYNEX dated April 10, 1995 (**Exhibit "3"**) stating that end users will be able to dial either the three digit CIC or the four digit expansion CIC for a six-year permissive transition period. Said correspondence also states that NYNEX upgraded its network facilities on the weekend prior to February 20, 1995.¹⁵
- (4) **Pacific Bell** - VarTec received correspondence from Pacific Bell dated March 13, 1995 and March 16, 1995 (**Exhibits "4-a" and "4-b"**) which states that the

¹³ Correspondence from Bell Atlantic to VarTec dated December 2, 1994.

¹⁴ Correspondence from Ameritech to VarTec dated June 16, 1995, July 29, 1994, August 8, 1994 and January 10, 1995.

¹⁵ Correspondence dated April 10, 1995 from NYNEX to VarTec.

permissive dialing period for the expansion has not been determined by the industry and that the FGD expansion will be completed nation wide on the FCC mandated date of July 1, 1995. Said correspondence also states that Pacific Bell is not requiring customers to convert to the expanded CIC but that they do recommend conversion.¹⁶

- (5) **US WEST** - VarTec received US West's FGD CIC expansion information regarding its implementation of the CIC expansion dated October 21, 1994 (**Exhibit "5"**). Said information states that both three and four digit CICs will process in its network and billing systems on December 9, 1994, that the permissive period is currently under advisement in Docket No. 92-237 and that the NPR in said docket stated that a six year transition period should be employed.¹⁷
- (6) **Southwestern Bell Telephone** - VarTec received two pieces of correspondence from Southwestern Bell Telephone Corporation (**Exhibits "6-a" and "6-b"**) stating that it will implement changes to its networking and billing systems that will enable it to begin accepting four digit CICs as of May 8, 1995.¹⁸ The information stated that Southwestern Bell Telephone Company anticipates a six-year permissive dialing period.

¹⁶ Correspondence dated March 13, 1995 and March 16, 1995 from Pacific Bell to VarTec.

¹⁷ US West Feature Group D Carrier identification Code Expansion Delivery Information, October 25, 1994.

¹⁸ "Access Bulletin," dated January 6, 1995 and correspondence dated February 14, 1995 from Southwestern Bell Telephone to VarTec.

- (7) **BellSouth** - VarTec received correspondence from BellSouth Telecommunications (**Exhibit "7"**) stating that it had already implemented the necessary upgrades to its network and billing systems to accept either the three digit or four digit CIC.¹⁹
- (8) **Sprint/United/Centel** - VarTec received three pieces of correspondence from Sprint describing their CIC expansion procedures dated March 6, 1995, March 13, 1995 and March 27, 1995 (**Exhibits "8-a" through "8-c"**). Said correspondence states that Sprint will allow both three digit and four digit CICs for the "BellCore" prescribed 5-year permissive period and that its network will begin accepting 4 digit CICs on April 1, 1995.²⁰
- (9) **GTE Telephone Operations** - VarTec received correspondence dated March 21, 1995 (**Exhibits "9-a" through "9-c"**) stating that GTE would accept orders for the four digit CIC on May 1, 1995. This information further stated that the industry was unable to reach a consensus as to the length of the permissible dialing plan where both the three digit and four digit codes could be utilized, but that the North American Numbering Plan Administrator has recommended an eighteen month permissive period.²¹
- (10) **ALLTEL** - VarTec received correspondence from Alltel dated March 28, 1995 (**Exhibit "10"**) which states that Alltel would require four digit CICs to be used

¹⁹ Correspondence from BellSouth Telecommunications dated March 16, 1995 to VarTec.

²⁰ Correspondence dated March 6, 1995, March 13, 1995 and March 27, 1995 from Sprint/United/Centel telephone companies to VarTec.

²¹ Correspondence dated January 31, 1995, February 24, 1995 and March 21, 1995 from GTE to VarTec.

whenever the industry standard is set. There is no mention of the length of the permissive dialing period.²²

As detailed above, the disparity in the information produced by the LECs regarding the implementation date of the four digit CIC, system parameters and the length of the permissive dialing period is quite evident. In fact, the comments range from Bell Atlantic's opinion that IXC's were not allowed to send mixed three and four digit CICs, to US West's information stating that IXC's will be able to utilize both three and four digit CICs during the permissive period. Regarding dates of implementation, Pacific Bell believes the Commission mandated an FGD expansion date of July 1, 1995, while other LECs have already implemented the necessary changes to their network configurations. It is also clear that the industry has not come to an agreement regarding the length of the permissive dialing period or the responsibilities of the IXC's and LECs during the permissive period. Four of the nine LECs described above do not state a specific length for the permissive dialing period. The remaining LECs state that the permissive dialing period will be between eighteen months and six years. Further, the entities given the responsibility of administering policies regarding this issue, BellCore and the North American Numbering Plan ("NANP") Administrator, have also issued differing opinions regarding the CIC expansion. BellCore has recommended to the Commission that a period of five years should be implemented for the permissive dialing period while the NANP administrator suggested a period of eighteen months.²³ With the exhaustion of CICs at hand, it is imperative that the Commission expeditiously promulgate rules regarding the FGD CIC expansion.

²² Correspondence dated March 28, 1995 from Alltel to VarTec.

²³ See 15 and 1, *infra*.

II. GRANDFATHERING CERTAIN FGD CICs

A. INTERESTS OF SMALL IXC_s SHOULD BE PROTECTED

VarTec respectfully requests the Commission consider the following regulatory proposal in lieu of requiring VarTec, as well as every other small telecommunications company, to modify its telecommunications facilities to utilize the expanded seven digit CAC format. VarTec takes exception to the Commission's determination included in the NPR stating that "there will not be a significant economic impact on a substantial number of small business entities, as defined in *Section 601(3) of the Regulatory Flexibility Act*."²⁴ VarTec contends that any change in the current composition of the FGD CICs will have a serious impact on every small interexchange carriers' (including VarTec's) network, operations, revenues and overall marketing program. It is likely that the expansion of the FGD CICs will result in an acute increase in consumer confusion, dialing time (particularly for pulse dialed calls), dialing errors, and create significant expense to VarTec in re-marketing its expansive customer base in order to educate consumers about the new dialing procedure. Moreover, much of VarTec's casual customer base may cease dialing its CAC before placing a long distance call due to the increased time and effort required in dialing the additional digits to access VarTec's long distance services.

The Regulatory Flexibility Act of 1980 ("RFA") was designed to protect small businesses from "uniform Federal regulatory and reporting requirements [that] have in numerous instances imposed unnecessary and disproportionately burdensome demands including legal, accounting and consulting costs upon small businesses, small organizations, and small governmental jurisdictions

²⁴ NPR, ¶ 59.

with limited resources." 5 *United States Code* 601, Section 2(a)(3). Specifically, the RFA was designed to protect "Small Businesses" from the following types of regulatory requirements:

to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.²⁵

Section 601(3) of the RFA defines a "small business" as having the same meaning as the term "small business entity" (defined in Section 3 of the Small Business Act). In said statute, a telecommunications "small business entity" is defined as being a corporation providing telephone services having less than 1500 employees.²⁶ As of April 30, 1995, VarTec employed 282 individuals.

Since it was the Commission's determination that the NPR would not have a "significant economic impact on a substantial number of small entities,"²⁷ it is VarTec's understanding that the Commission did not complete and publish a regulatory flexibility analysis containing: (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of and the legal basis for the proposed rule; (3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping and an estimate of the classes of small entities which will

²⁵ The Regulatory Flexibility Act, 94 Stat. 1164, Section 2(b).

²⁶ 13 Code of Federal Regulations 121.

²⁷ 5 USC §602(a)(1).

be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule;²⁸ and, (6) most importantly to small interexchange carriers, a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.²⁹ Specifically, the alternatives should discuss the following: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and, (4) an exemption from coverage of the rule, or any part thereof, for such small entities.³⁰

B. REQUEST FOR REGULATORY FLEXIBILITY

VarTec submits that it (and other small telecommunications entities) should not be required to implement the required changes in its telecommunications facilities and marketing plans necessary to comply with the laws and regulations set forth in the NPR. Pursuant to the provisions set forth in the RFA, VarTec respectfully requests that the Commission grant it, and other small telecommunications entities containing less than 1500 employees, indefinite relief from implementing such changes in their telecommunications facilities and marketing plans. VarTec also

²⁸ 94 Stat. 1166, et. seq., 5 USC §603 (b).

²⁹ 94 Stat. 1167, 5 USC §603(c).

³⁰ Ibid.

respectfully requests that the Commission complete a regulatory flexibility analysis pursuant to the provisions required in the RFA.

VarTec is not alone in its supposition that a lengthened dialing code will increase the difficulties experienced in attracting customers who must dial such codes in order to utilize their long distance carrier of choice.³¹ As shown above, there are approximately 458 interexchange carriers purchasing Equal Access services throughout the United States.³² Those 458 long distance carriers include AT&T, MCI, Sprint and LDDS which effectively control 87.8% of the long distance market in the United States.³³ VarTec has expended substantial sums of money in marketing costs to solicit consumers' long distance business accessed through its FGD CICs. VarTec's customers are both familiar and comfortable with its FGD CICs and regularly utilize the CACs to access the Company's services.

By granting VarTec and other small telecommunications companies relief from implementing FGD expansion, the Commission is not granting VarTec and the other small interexchange carriers preferential treatment nor would the Commission be unfairly discriminating against new carriers assigned the expanded seven digit CIC. In fact, by granting VarTec's request, the Commission would be ensuring (at a minimum) the current level of competition in the long distance telecommunications market. It will cost millions of dollars to re-educate consumers regarding the FGD CIC expansion. Large IXC's like AT&T have expansive presubscribed customer bases that do not dial a CAC. On the other hand, IXC's such as VarTec depend to a large degree on

³¹ NPR, ¶ 56, Allnet, comments, p. 8.

³² See 6.

³³ See 10.

its customers dialing a FGD CAC. By making the process of dialing an IXC's CAC more cumbersome, the Commission will actually benefit IXCs with large presubscribed customer bases and LECs due to the fact that many consumers may resist dialing an expanded code and, instead, merely allow their toll calls to be carried by their presubscribed IXCs or LEC (in the case of intraLATA calls). As stated above, several LECs requested the permissive dialing period to be as short as possible citing increased switching costs. VarTec submits that any costs incurred by the LECs associated with providing the network functionalities required to facilitate the provisions described herein are remitted to the LECs as part of the access fees charged to all IXCs. VarTec believes that the LECs have current technology in place that allows for the permanent co-existence of both five digit and seven digit CACs. Further, VarTec states that the LECs overall request for a brief permissive dialing period stems from their attempt to keep a stranglehold on their highly coveted intraLATA toll revenues. The net effect of requiring small IXCs to implement the FGD CIC expansion would be a decrease in the current level of competition in the interexchange telecommunications market.

C. PROVISIONS TO BE INCLUDED IN THE REGULATORY FLEXIBILITY ANALYSIS.

VarTec respectfully requests that the regulatory flexibility analysis prepared by the Commission contain (at a minimum) the following provisions to be used as a basis for an alternative regulatory framework concerning small telecommunications entities:

- (1) All interexchange carriers meeting the requirements set forth in Section 3 of the Small Business Act, be granted indefinite relief from implementing the necessary

changes to their telecommunications facilities in order to support a four digit CIC;

- (2) That, all LECs providing FGD functionality be required to transport both three and four digit CICs to applicable interexchange carriers that meet the requirements set forth above, indefinitely.
- (3) That, the LECs be restricted from providing customers with confusing material (e.g., bill inserts, or other forms of notice) that could confuse consumers regarding the FGD CIC expansion.

III. ALTERNATIVE REGULATORY SCHEME

If the Commission finds that "grandfathering" the existing CICs of small IXC's is not in the public interest, VarTec respectfully requests the Commission promulgate specific guidelines regarding the FGD CIC expansion. Commission guidance is needed to determine the specific responsibilities of the LECs and IXC's and the length of the permissive period associated with the CIC expansion. As shown above, there is no current industry consensus regarding this issue, nor is such consensus likely. As such, VarTec respectfully requests that any order delineating practices and procedures during the FGD CIC expansion include the following:

A. CLARIFICATION OF IXC AND LEC RESPONSIBILITIES DURING THE FGD CIC EXPANSION.

Because of the degree of confusion in the industry regarding the CIC expansion, it is vital that the Commission clarify the responsibilities of the parties concerned regarding the implementation of the FGD CIC expansion. Specifically, there are at least four areas that need

clarification: (1) network considerations such as the date when all LECs which currently provide FGD functionality must accept both three and four digit CACs as well as standardized system requirements and time tables that all LECs providing FGD functionality must adhere to; (2) billing system considerations such as standardizing accepted record formats and providing for a date certain when all LECs providing FGD functionality must exclusively accept the expanded CIC format; (3) the length of the permissive dialing period; and, (4) prescribe the information which must be included in customer notifications (e.g., bill inserts) regarding the expansion by LECs during the permissive dialing period and provide a mechanism to limit customer confusion.

1. NETWORK REQUIREMENTS

Specific responsibilities of the LECs and IXC during the permissive dialing period need to be clarified by the Commission. The Commission must establish standardized practices and procedures that apply to all IXCs and LECs so as to avoid the possibility of further customer and industry confusion regarding the CIC expansion. Currently, many of the LECs have established vague guidelines regarding certain network functions. For example, the information provided to VarTec from US West (Exhibit "5") contains questions and answers regarding their procedures during the CIC expansion. Question 1 asks whether an existing trunk group can have a mixture of three digit and four digit CIC. The answer provided by US West is nebulous at best. It states, "Customers must convert their network by trunk group. Once a four digit CIC has been added to the trunk group or an existing CIC

on a given trunk group is converted, all CICs on that trunk group will be converted."³⁴ Does this mean that once a trunk group is converted from a three digit trunk group to a four digit trunk group that an end user may no longer dial a three digit CIC? VarTec believes that the Commission must establish national network criteria policies reflecting the following guidelines: (1) that end users will be able to dial both the three digit CIC and the expanded four digit CIC during the entire permissive dialing period; (2) the date certain when all LECs providing FGD access services are required to have their network facilities upgraded to accept both the three digit CIC and the expanded four digit CIC for the duration of the permissive dialing period; and, (3) the date certain when all IXCs would be required to convert their trunk group configurations to the expanded four digit CIC format.³⁵ The inclusion of these provisions in the Commission's order will ensure that all customers wishing to utilize their interexchange carrier of choice will be able to do so. As a result, the Commission will ensure (at a minimum) the current level of competition in the interexchange toll market.

2. BILLING SYSTEM REQUIREMENTS

Currently, there is a disparity in the policies being purported by LECs regarding the billing system criteria that will be accepted during the FGD CIC expansion. As shown

³⁴ See 14, page 18, *infra*.

³⁵ This conversion should occur on a date close to the end of the permissive dialing period. Please note that even though the trunk group will be converted to the expanded four digit CIC format, the LEC should still provide translations allowing for three digit as well as four digit CIC traffic to be transported to the end users IXC of choice for the duration of the permissive dialing period.

above, several of the LECs have already implemented the necessary network configurations to accept both the five digit CACs and the seven digit CACs. However, LECs are implementing such services according to individual time tables. With respect to billing issues, nearly all of the LECs have stated that once an IXC changes to sending its messages to their billing system in the four digit format, that IXC may not send records in a three digit format. VarTec believes that the Commission should set forth a date certain when all LECs must accept four digit records. In order for IXCs and LECs to convert existing three digit formatted billing records to the four digit CIC format, each must perform substantial amounts of billing system changes and upgrades. As such, it is in the public interest for the Commission to; (1) set forth a date certain when all LECs must accept the new four digit CICs in their billing systems; (2) incorporate existing LEC policies stating that IXCs may submit three digit CIC billing records during the permissive dialing period; (3) incorporate existing LEC policies stating that once an IXC has requested that a LEC accept the expanded four digit CIC billing records, the IXC must submit all of its billing records in the four digit CIC format; and, (4) set forth a date certain when all IXCs must submit their billing records to the LECs solely in the four digit CIC format.³⁶

3. LENGTH OF THE PERMISSIVE DIALING PERIOD

The length of the permissive dialing period has been a matter of great debate throughout the life of this Docket. As is duly noted in the NPR, most LECs generally

³⁶ As requested in the Network Requirements section of this Petition, *infra*, the date requiring IXCs to submit billing records in the four digit CIC format should be toward the end of the permissive period so as to ensure proper processing of the records.